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1 actually ever submitted to Medicare or Medicaid  
2 personally?

3 A I do not know whether it was submitted. I  
4 would assume it was because that is a coding chart.

5 Q I understand you assume that, but you have no  
6 personal knowledge?

7 MR. PATMON: Objection.

8 A No. I didn't get involved in billing.

9 MR. PATMON: Objection.

10 Q All right. Did you ever report that to  
11 anyone?

12 A No, I did not.

13 Q Okay. Did you ever report to anyone at Mount  
14 Carmel that you believe somebody at Mount Carmel had  
15 committed any violations of Medicare rules or  
16 regulations?

17 A Did I ever report it?

18 Q Yeah.

19 A I've reported violation of hours. I don't  
20 know if that pertains to that.

21 Q I understand what you're referring to  
22 reporting a violation of ACGME rules, correct?

23 A Correct.

24 Q Okay. When you made that report, that wasn't

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1 a report that someone's violating Medicare or  
2 Medicaid -- committing Medicare or Medicaid fraud?

3 A No, I don't think so.

4 Q Okay. The concern with that one was for?

5 A My career being at risk since I've been  
6 reprimanded and warned before in the past for violating  
7 hours of reporting.

8 Q So that was an ACGME hours issue?

9 A It was violating and reporting it is what --

10 Q Okay. So you were concerned that residents  
11 were being overworked, possibly patient safety was a  
12 issue, correct?

13 A I was. I violated the hours and I was told  
14 to lie about it to ACGME.

15 Q Okay. That was in the family medicine  
16 program?

17 A And I did report violation of my hours to  
18 Dr. Weiss as well and the chief residents in the  
19 internal medicine program in ICU.

20 Q And when was that report made?

21 A It was in December. I do not recall the  
22 exact year. But I reported it. And Chirag Patel was  
23 the chief resident.

24 And then again my career was threatened at

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1     that point in time, too, because I was warned again.

2           Q     By who?

3           A     Chirag Patel.

4           Q     Do you know if Dr. Weiss knew that he was  
5     doing that?

6           A     Dr. Weiss reported it I assume to Chirag  
7     Patel because he paid me a visit afterwards and started  
8     yelling at me about it.

9           Q     Who yelled at you?

10          A     Chirag Patel.

11          Q     Do you know if Dr. Weiss told him to yell at  
12     you?

13          A     I do not know details of it. And then soon  
14     after I could not write my hours for that violation  
15     online.

16                   I was wiped out of the system and I could not  
17     add my hours anymore for the remainder of my residency.  
18     The secretary said she was doing it for me now. I  
19     didn't have access anymore.

20          Q     I'm sorry. To what program?

21          A     I could not write my hours anymore, log it in  
22     anymore.

23          Q     What was the program?

24          A     GME-1.

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1     that during the investigation into the A-line incident  
2     you were not truthful about who you had contacted as  
3     part of the investigation; is that correct?

4           A     I did make a mistake of saying I did not  
5     communicate with Amanda when she called me, yes. But I  
6     did correct myself in the committee where I'm supposed  
7     to and I volunteered that information.

8           Q     Are you aware that Amanda also let Mount  
9     Carmel know that you had contacted her?

10          A     I do not know.

11          Q     The A-line incident that led to your  
12     termination was reported to Mount Carmel by a nurse  
13     named Lisa Cottrell. Do you recall that?

14          A     Yes.

15          Q     Okay. Lisa Cottrell reported one version of  
16     events to Mount Carmel; is that correct?

17          A     I assume. I don't know what she reported.

18          Q     Are you aware that she reported to Mount  
19     Carmel that you asked for a nurse's assistance in  
20     putting in an A-line?

21          A     No. Amanda -- like I mentioned before,  
22     Amanda came in with me.

23          Q     Sure. I'm not asking what happened. I'm  
24     asking if you're aware of what Lisa's report was?

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1           A     Okay.

2           Q     What is this document we've marked as Exhibit  
3     8?

4           A     My incident report.

5           Q     This is your statement to Mount Carmel  
6     regarding the A-line incident that Lisa reported,  
7     correct?

8           A     That's correct.

9           Q     In your statement you say that you were  
10    attempting to insert the A-line, that you developed a  
11    cramp in your back and that you asked Amanda to hold  
12    the A-line in position while you relieved the cramp,  
13    and that while she was doing so Amanda must have  
14    accidentally moved the A-line a little bit getting into  
15    the artery and that then you quickly took over and  
16    finished the procedure. Is that accurate?

17          A     Well, I don't think she actually got into the  
18    artery because I had to find the artery. It was just a  
19    flash.

20          Q     Okay. Otherwise is that correct?

21          A     Yes.

22          Q     Okay. It's very different from Lisa's  
23    statement, correct?

24          A     Yes.

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1           A     I don't know any of that information.

2           Q     And then after your year in internal medicine  
3 they renewed your contract, correct?

4           A     Yes.

5           Q     And after your second year in internal  
6 medicine, June 30 of 2009, they renewed your contract  
7 again, correct?

8           A     I don't know the exact date I signed my  
9 contract, but yes.

10          Q     The new contract typically starts July 1st;  
11 is that correct?

12          A     That's correct.

13          Q     Do you have any knowledge of whether Mount  
14 Carmel was required to renew those contracts from year  
15 to year?

16          A     I don't know.

17          Q     So as far as you know if they wanted to get  
18 rid of you they could have just not renewed your  
19 contract; fair to say?

20               MR. PATMON: Objection.

21          A     I don't know the process.

22          Q     Okay. When did you report hours violations  
23 in internal medicine?

24          A     I mentioned that before. When I was in the

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1 ICU in December.

2 Q What year?

3 A It was the year that Chirag Patel was the  
4 chief resident.

5 Q Which year was that, your first year or  
6 second year?

7 A I don't know which year it was. Whether it  
8 was the first or second I'm not sure. I think it was  
9 the first year.

10 Q Who did you make your report to?

11 A I reported it to Dr. Weiss.

12 Q Was it a written report or an oral report?

13 A Oral.

14 Q Do you recall what the substance of the  
15 report was?

16 A That I'm going to work over 100 hours in one  
17 week time frame, and I'm going to violate the hours for  
18 the entire month of an average of 80 hours a week.

19 Q You told him that that was going to happen.  
20 It hadn't happened yet?

21 A The schedule was written. He was aware of  
22 the schedule.

23 Q Did you actually end up going over hours?

24 A Yes.

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1           Q     Did Dr. Weiss give you any response to your  
2     complaint?

3           A     No. I don't recall the details of what his  
4     response was.

5           Q     You don't remember what he said to you?

6           A     He said he will talk to the chief resident.

7           Q     And you believe you exceeded the hours  
8     requirements during that month?

9           A     Oh, yes.

10          Q     Did you report that to anyone other than  
11     Dr. Weiss?

12          A     I don't recall besides the resident and the  
13     senior resident we do consult on for that ICU. She's  
14     the one who said you need to talk to Dr. Weiss.

15          Q     Anyone other than residents did you report it  
16     to?

17          A     I don't recall.

18          Q     Okay. Do you have any documentation  
19     regarding your hours during that month?

20          A     I can't because they wiped me out of the  
21     system and it was irretrievable.

22                 So before I could document my violation they  
23     wiped out the entire system of me being able to log on  
24     or me as a resident. And I was the only one wiped out



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1 according to the secretary and Lori hall.

2 Q You have no personal knowledge whether other  
3 residents were unable to access the system? I think we  
4 already talked about that. Correct?

5 A According Lori Hall and the secretary  
6 mentioned it to me.

7 Q All right. That's something someone else  
8 told you. I'm talking about what you yourself know.

9 A I don't know of every single resident, no.  
10 I'm not an administrator.

11 Q You said you talked about to somebody the  
12 number of admissions at night?

13 A That's correct.

14 Q When did you make that complaint?

15 A It wasn't just me. It was a lot of  
16 residents. It was during our time when we were writing  
17 our evaluation to ACGME.

18 Q Who did you make the report to?

19 A It was a comment that the class brought up,  
20 the interns did.

21 Q Oh, so it wasn't just Sunil Nayyar going to  
22 someone and saying this is a problem?

23 A I don't know. I don't know the details of  
24 who mentioned it. I was one who mentioned it a lot

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1 him about it, he said he's not changing it.

2 Q Okay. So you went and talked to Dr. Weiss  
3 about that schedule?

4 A Yes.

5 Q Okay. Was that a concern for patient safety  
6 or for your workload in the ICU?

7 A Patient safety. And the workload will be  
8 doubled, which leads to patient safety issues.

9 - - -

10 INTERNAL MEDICINE CALL CALENDAR, JULY 2009  
11 WAS MARKED AS DR. NAYYAR DEPOSITION EXHIBIT  
12 NO. 12.

13 - - -

14 Q Dr. Nayyar, we've just handed you what we've  
15 marked as Exhibit 12. Is this the schedule that you've  
16 been referring to?

17 A I believe so.

18 Q Okay. Because this is captioned Internal  
19 Medicine Call Schedule, July of 2009, correct?

20 A That's correct.

21 Q Okay. There are a couple of circles drawn on  
22 this document. Do you see those?

23 A Yes.

24 Q In pen it looks like. Do you know who drew

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1     those circles? Was it you?

2           A     I don't recall.

3           Q     Okay.

4           A     I don't know if this is the one I turned into  
5     Dr. Lee Tang or not.

6                     There was a lot of writing on Dr. Lee Tang's,  
7     the one I gave her, so I don't think this is mine.

8           Q     Okay. And the concern that you brought up I  
9     believe on -- for example, if you look at Wednesday,  
10    the 1st, it lists you as the night float and there is  
11    no intern, correct?

12          A     That's correct.

13          Q     So the intern is a first-year medical  
14    resident?

15          A     That's correct.

16          Q     Okay.

17          A     Or an OB-GYN.

18          Q     But it's a first year --

19          A     Yes.

20          Q     -- fresh out of medical school?

21          A     That's correct.

22          Q     Okay. In fact, July 1st being the first day  
23    of the residency program, correct, for the intern?

24          A     I believe so. I don't know exactly the first

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1           Q     So you have no knowledge of that person's  
2     medical condition or history or what caused their  
3     death, correct?

4           A     It was written in an article online.

5           Q     Other than what you read on the Internet you  
6     have no knowledge of that person's history, correct?

7           A     At that time I don't know.

8           Q     You were not involved in treating that  
9     patient, correct?

10          A     No, that's correct. So I don't know exactly  
11     what happened during that time in the hospital.

12          Q     Anything you know would be something you saw  
13     in the news or heard from other people, correct?

14          A     That's correct.

15          Q     Your concerns about what the problems were in  
16     the ICU with the staffing at night had to do with  
17     patient safety, correct?

18          A     Yes.

19          Q     Did you believe that there were laws that  
20     were being broken or was it a patient safety concern?

21          A     In terms of here?

22          Q     In terms of the petition and the lack of a  
23     critical care specialist.

24          A     Yeah. They wouldn't answer their phone

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1 sometimes at night. St. John wouldn't.

2 Q Were you aware of any laws that were being  
3 broken or any requirements that were not being met?

4 A I don't know what all the laws are so I can't  
5 comment on that.

6 Q Okay. So for you it was a patient safety  
7 issue only?

8 A Yes.

9 Q Okay. With respect to the hours violations  
10 that we talked about, who sets the rules for what hours  
11 residents can work?

12 A ACGME.

13 Q And by ACGME that's the -- I'm trying to get  
14 this right -- Accreditation Council for Graduate  
15 Medical Education?

16 A I would assume so.

17 Q Okay. And so your belief was that the  
18 hospital was violating ACGME'S rules, correct?

19 A Yes. And the program director also stated  
20 that we can only work 80 hours a week averaged over  
21 four weeks.

22 Q Okay. Were you concerned that there were any  
23 laws that were being violated or was it an ACGME issue?

24 A I don't know all the laws. I told you that.

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1 Q So for you it was an ACGME issue?

2 A ACGME and then patient safety concerns.

3 Q Okay. Were you aware of any Mount Carmel  
4 policy regarding staffing in the ICU that you thought  
5 was being violated by not having a critical care  
6 specialist there?

7 A I don't know their policy. I have no idea  
8 what their policy states.

9 MR. ARMSTRONG: Okay. Why don't we take  
10 about five minutes and I'll see if I have anything  
11 else.

12 MR. PATMON: All right.

13 (A recess was taken.)

14 MR. ARMSTRONG: All right. Let's go back on  
15 the record.

16 Q Dr. Nayyar, we talked about software that you  
17 used to log your work hours. You mentioned GME-1?

18 A It's either eightyhours.com or GME-1. I  
19 can't recall.

20 Q Do you recall a program called New  
21 Innovations?

22 A I do not recall.

23 Q When you would log into these programs and  
24 enter your hours, did you have like an individual

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1 Do you see that?

2 A Yes.

3 Q Did you ever tell the ONN reporter that you  
4 were being investigated for an A-line?

5 A No, I did not.

6 Q Okay. Did you ever tell the ONN reporter  
7 that a patient's safety was endangered due to an A-line  
8 procedure?

9 A No, I did not.

10 Q You can put that away. If you could pull out  
11 Exhibit 12.

12 You were asked a series of questions about  
13 Exhibit 12. What is Exhibit 12?

14 A The schedule for July in ICU.

15 Q 2009?

16 A That's correct.

17 Q Okay. Now, correct me if I'm missing your  
18 prior testimony, but it's my understanding that you say  
19 you provided a schedule like this to Dr. Lee Tang,  
20 correct?

21 A That's correct.

22 Q And that schedule that you provided to  
23 Dr. Lee Tang had writing on it, correct?

24 A That's correct.

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1           Q     What was the writing on that schedule that  
2     you can recall?

3           A     It was highlighting days where all the  
4     residents were by themselves in ICU at night flow and  
5     on the weekend without another intern on-board, and it  
6     also had information of how the schedule worked, and  
7     then Dr. Lee Tang was also making notes on it as well.

8           Q     Okay. And can you recall any detail right  
9     now as you sit here about the notes that Dr. Lee Tang  
10    made and that you made?

11          A     She was writing down stuff how the schedule  
12    worked, how the night flow worked, and how I think I  
13    talked to Dr. Weiss about it prior to coming to her  
14    office and I mentioned that to her.

15          Q     And when you brought this schedule with your  
16    writing on it to Dr. Lee Tang, why were you bringing  
17    that to her?

18          A     Because patient safety was at risk and what  
19    Dr. Weiss told me.

20          Q     What specifically did you tell her? What was  
21    your protest to her about patient safety?

22          A     I said Dr. Weiss told me -- when I brought  
23    this schedule to Dr. Weiss, I said, "Patients will  
24    die," and he said, "More to prove my point we don't



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1 belong in ICU." And I went into detail about it, that  
2 there's extra residents on the internal medicine clinic  
3 that can be placed in the ICU.

4 I talked to him about Deton (phonetic.) Why  
5 are you doing this, someone who fought for patient  
6 safety. Why are you making it more dangerous than what  
7 it is, and that it is above my care and I know I won't  
8 be able to perform. And he didn't say anything, so I  
9 told him I'm going to report it to Dr. Lee Tang, and I  
10 went straight in to Dr. Lee Tang.

11 Q And you repeated this to Dr. Lee Tang?

12 A Yes.

13 Q During the meeting with Dr. Weiss you  
14 presented this schedule, a schedule like this to him,  
15 right?

16 A That's correct.

17 Q When you talked to Dr. Weiss is this the same  
18 schedule that had writing on it?

19 A No.

20 Q Okay. I'm not talking about the one in front  
21 of me. What I'm trying to establish here is that when  
22 you talked -- you talked to Dr. Weiss and then you  
23 talked Dr. Lee Tang, and you had his schedule in your  
24 hand?

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1 he believes it's criminal.

2 MR. ARMSTRONG: I asked him if it was against  
3 the law and he said no.

4 A I don't know any laws.

5 MR. PATMON: We can understand that. And  
6 he's not a lawyer so I'm asking just for his belief.

7 Q Do you believe it was wrong?

8 A Yes.

9 Q Do you believe it was criminal?

10 A In my opinion, yes.

11 Q Why do you believe it's criminal?

12 A Because ultimately a patient can die.

13 I witnessed a man telling me he's increasing  
14 patient safety, putting people at risk, and I reported  
15 it.

16 So I believe that if you put a patient at  
17 risk, that is criminal, and if they ultimately die,  
18 that is criminal.

19 Q So you believe that intentionally putting a  
20 patient at risk is criminal?

21 A Yes.

22 Q And you believe it's a violation of some law,  
23 right?

24 A Yeah.

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1     that correct?

2           A     No.  It's the patient's radial artery in  
3     their left hand and the right radial artery in the  
4     right hand.  So the left radial artery means the left  
5     hand.

6           Q     The patient's left hand?

7           A     That's correct.

8           Q     You say that you gave Dr. Lee Tang a schedule  
9     that had writing on it?

10          A     That's correct.

11          Q     How was that writing rendered?  Was it in  
12     pen, pencil, highlighter?  What was it?

13          A     I did highlighter, and I did write in pen.

14          Q     Okay.  Did you read any of the notes that  
15     Dr. Tang wrote on the document?

16          A     I could see some of it because I sat in her  
17     office for about, I don't know, 30, 45 minutes sitting  
18     down at a table and discussing it and she was  
19     documenting stuff.

20          Q     Can you tell us what you read that she wrote  
21     on the paper?

22          A     Mainly explaining the entire process of the  
23     schedule and how it works, my concerns, what Dr.  
24     Weiss -- our conversation between Dr. Weiss and I.  But